

**WILLIAMSBURG CITY COUNCIL
FEBRUARY 12, 2004
MINUTES**

The Williamsburg City Council held its regular monthly meeting on February 12, 2004, at 2:00 p.m., in the Council Chambers of the Stryker Building.

ATTENDANCE

Present were Ms. Zeidler, Messrs. Haulman, Houghland, Scruggs, and Tabb. Also present were City Manager Tuttle, City Attorney Phillips, and City Clerk Crist.

Staff Attending: Department Heads Nester, Hudson, Serra, Clayton, Yost, Weiler, and Assistant City Manager Miller.

CALL TO ORDER

Mayor Zeidler called the meeting to order.

COUNCIL MINUTES

Mr. Houghland Moved Approval of the City Council Minutes of January 8, 2004 and Special Meeting of January 25, 2004.

Recorded Vote on the Motion:

Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb

No: None

SPECIAL PRIVILEGE

Excellence in Service to Williamsburg Award—Zoning Administrator Carolyn Murphy

Mayor Zeidler said that this was a valuable award because the recipient is selected by their peers and recognized for the excellent service they provide. She asked Carolyn Murphy to join her at the podium and read the citation recognizing work and accomplishments in keeping with the best traditions of public service in the City of Williamsburg.

Ms. Murphy said it was a pleasure to work with the city and her co-workers. She thanked Mr. Nester and the planning staff members for their support.

The Mayor presented Ms. Murphy with the "Excellence in Service to Williamsburg Award" and congratulated her.

PUBLIC HEARINGS

Request of Williamsburg Presbyterian Church, 215 Richmond Road, for a special use permit for a new sanctuary, expanding capacity from 275 to 500 seats.

Reference for this item was Mr. Nester's report dated February 12, 2004. Mr. Nester reviewed the information included in his report. He said the special use permit was approved by Council previously on December 12, 2002, to allow the demolition of the existing sanctuary and build a larger sanctuary and support space. The SUP expired in December 2003 because the final site plan had not been approved. Mr. Nester said the design was approved by the Architectural Review Board this week. Parking in the downtown area is adequate to support the proposed use. The Planning Commission held a

public hearing on this item on January 14, and recommended that the request be approved in accordance with the conceptual site plan and other approvals.

Mayor Zeidler opened the Public Hearing.

Mr. W. Thompson, 1007 Lafayette Street, said the church committee has been working on this for five years. Members of the church are very excited about the project.

Ruth Bower, Chairman of the Building Restoration Committee, thanked Council on behalf of the community. The church is happy that they are staying in the city and are looking forward to a new building. Construction starts in May and the church will address the matter of the steeple at a later date.

No one else wished to speak.

The public hearing was closed.

Mr. Houghland disclosed that he was a member of the church and would not be voting.

Council members were pleased with the design of the church and that the church would be staying in the downtown area.

Mr. Haulman Moved That City Council Approve the Special Use Permit to Allow the Williamsburg Presbyterian Church to Build A New Sanctuary, Expanding Capacity from 275 to 500 seats, in Accordance With the Submitted Conceptual Site Plan, in Accordance with the Parking License Agreement with the College of William and Mary (Recorded in Deed book 89, Pages 99 to 104), and Contingent Upon Final Site Plan Approval by Planning Commission. The Motion was Seconded by Mr. Tabb.

Recorded Vote on the Motion:

Aye: Haulman, Scruggs, Zeidler, Tabb

No: None

Abstain: Houghland

Request of James City County Fire Department to Revise Chapter 21, Zoning, of the Williamsburg City Code, to Allow Replacement of Existing Communication Tower with a Special Use Permit, Proposed Ordinance #04-01

AND

Request of James City County Fire Department for a Special Use Permit to Replace an Existing 185-foot High Communications Tower with a 280 foot Tower at Berkeley Middle School.

Mayor Zeidler confirmed that Mr. Nester would address these two items together. Reference for this item was Mr. Nester's report dated February 12, 2004.

Mr. Nester reviewed the information in his report. The James City County Fire Department is requesting a zoning text amendment to allow replacement of existing communication towers with a special use permit, and requests that an existing 185-foot communications tower be removed and replaced with a 280-foot communications tower. The tower is located behind Berkeley Middle School. Mr. Nester presented several photographs of the tower and its location. Balloon tests were done to show visibility of the tower and the

height of the tower versus the tree line. The tower is not visible from the Historic Area. Mr. Nester stated that in the spirit of regional cooperation, there is no opposition to the proposed location of the 280-foot tower, particularly since it is part of a regional communication system. Staff recommended to the Planning Commission that the request be approved with conditions. Planning Commission held a public hearing on these requests and recommended that City Council approve the requests subject to seven conditions.

Mayor Zeidler opened the Public Hearing.

Richard Miller, Fire Chief, James City County, extended his appreciation to Council of the Planning Staff and Mr. Nester. He requested approval of the amendment to the zoning ordinance and special use permit. The new tower would provide good coverage to the city when it comes on board with the 800 MHz system. This is a strategic location for the tower and will provide an umbrella of coverage for all public safety units working in the area. Chief Miller and Council discussed maintenance of the tower, its height, safety in high winds, and the decision process concerning use of space on the tower.

No one else wished to speak.
The public hearing was closed.

Mr. Haulman and Chief Miller discussed permitted uses of the tower and visual pollution. The city has control on how the wireless user uses the site, not just the tower. Mr. Nester noted that the city likes to put wireless users on existing towers whenever possible. He also noted that the city's Zoning Ordinance is very restrictive about where towers are located. This tower is in the RS-2 District because it is being replaced.

Chief Miller said the revenue generated from the use of the tower by wireless companies is distributed by cooperative agreement between James City County and the School System. Mr. Houghland said he would like to see all revenue go to the School System.

Council members agreed it was better to have the tower in one location. Mr. Miller said that the location of equipment and any buildings on the grounds must have a building permit, and approval of city staff. Council members realized that the tower enables the 800 Mhz system operations for public safety purposes. Mr. Miller agreed that the tower would be removed if it were no longer in use.

Mr. Haulman Moved That City Council Approve Proposed Ordinance #04-01, An Ordinance Amending Chapter 21, Zoning, by Revising Article III, Division 3, Single Family Dwelling District RS-2 to Allow Replacement of Existing Communication Towers as a Special Use Permit, with the Following Conditions:

- 1. Existing 185-foot communications tower to be replaced by a self-supporting tower with a maximum height of 280 feet, in accordance with the site plan titled "Special Use Permit Plan for Existing Cellular Tower Modification at Berkeley Middle School", dated November 20, 2003, and prepared by AES Consulting Engineers.*
- 2. Final site engineering details to be approved by City staff.*
- 3. The tower shall have a finish that is gray in color as approved by the Zoning Administrator. No additional lighting beyond the minimum required by the FAA or FCC shall be allowed on the tower.*

4. *No advertising material or signs shall be placed on the tower.*
5. *Existing City communications antennas and equipment on the existing 185-foot tower, which will be replaced by the new 280-foot tower, shall be transferred to the new tower at no cost to the City.*
6. *A total of three sites on the tower shall be reserved for use by the City for municipal communications systems antennas at no cost to the City.*
7. *If the City elects to join the 800 MHz system used by James City County and York County, it will be done on the basis of a specific agreement negotiated by the parties at that time. Any such agreement, however, will be based on the concept that the City will pay only the marginal or additional costs then required to add the City as a user of the 800 MHz system, and the City's fair share of system costs going forward. The City shall not be required to reimburse any costs already incurred by system users.*
8. *When the tower is no longer in use, that the entire tower be removed.*

The Motion Was Seconded by Mr. Houghland.

Recorded Vote on the Motion:

Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb

No: None (SEE ATTACHED ADOPTED ORDINANCE #04-01)

Transportation Enhancement Grant, Guardrail Improvement Program, *Proposed Resolution #04-03*

Reference for this item was Mr. Tuttle's report dated February 3, 2004, which included a copy of the proposed resolution. Mr. Nester reviewed the map showing the locations where the guardrail will be replaced. Staff has prepared a grant proposal and the project meets the grant criteria of enhancing the scenic, historic, and aesthetic integrity and visitor appreciation of highways and adjacent areas leading to historic sites. The project is important for corridor beautification and in conjunction with the Jamestown 2007 commemoration.

Staff recommended that the request be approved and proposed resolution adopted.

Mayor Zeidler opened the public hearing.

Mr. Robert Hershberger, Executive Vice-President of the Chamber of Commerce and member of the steering committee on corridor enhancement, asked for Council's favorable consideration.

Council members applauded staff for this creative use of the Transportation Enhancement Grant.

Mr. Scruggs Moved that City Council Approve Proposed Resolution #04-03, Authorizing the Submittal of the Transportation Enhancement Grant. The Motion was Seconded by Mr. Tabb.

Recorded Vote on the Motion:

Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb

No: None (SEE ATTACHED ADOPTED RESOLUTION #04-03)

REPORTS

Monthly Financial Statement

The Monthly Financial Statement was received and ordered filed.

Monthly Departmental Operating Reports

The Monthly Departmental Reports were received and ordered filed.

Mr. Tuttle noted the reference to the Citizen Corps Program in the Human Services Department report.

Planning Reports

Paul Freiling, Chairman, Planning Commission, shared his personal thoughts (not the planning Commission's) with Council regarding the Comprehensive Plan review and update process. (See Attached). He concluded by saying that the Planning Commission is looking forward to working with Council on the Plan.

City Manager Reports

Williamsburg Farmers Market—Organizational Structure and Update Report

Reference for this item was Mr. Tuttle's report dated February 5, 2004, which included a copy of the "Article of Incorporation" for the Farmers' Market. Mr. Tuttle introduced Libby Oliver to give an update on the market.

Ms. Oliver presented a Powerpoint review of the first two years of the market's successful operation. She highlighted some of the special events, demonstrations, and products at the market. Average attendance is 800 to 1000 per Saturday. She recognized the City of Williamsburg, Colonial Williamsburg Foundation, Merchants Square Association and Williamsburg Land Conservancy as sponsors. On February 14, a Winter Market will be held from 9:00 to 11:00 a.m. Special markets will be held on March 13, April 10, and May 1, which is the opening of the new season.

Council members appreciated Ms. Oliver's report. The goals for the market have been achieved. The Mayor recognized Paul Hudson and Jodi Miller for their contributions to the market.

Mr. Tuttle said that it was time to find an organizational structure for the market. Mr. Phillips has drafted Articles of Incorporation, a 509(a) (3) corporation (See Attached). Initial Board members are outlined in the document, and city representatives are Jodi Miller and Annette Gilbert. All board actions will be subject to approval by the City Manager. Mr. Tuttle recommended that Council authorize submittal of the Articles of Incorporation to the State Corporation Commission.

Mr. Phillips clarified that vendors will have to obtain liability insurance coverage and that the city has insurance. Upon dissolution of the market, all remaining assets will be paid to the city. The city has no liability for the market, as the market is a separate entity.

Mr. Haulman Moved That City Council Authorize the City Attorney to Submit the Proposed Article of Incorporation to the State Corporation Commission for Incorporation. The Motion was Seconded by Mr. Tabb.

Recorded Vote on the Motion:

Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb

No: None

Treyburn Drive Design Approval, Proposed Resolution #04-02

Reference for this item was Mr. Tuttle's report dated January 29, 2004, which included a copy of Proposed Resolution #04-02. Mr. Tuttle said that last July, City Council approved the general location of Treyburn Drive and on December 15, 2003, Council held a public hearing known as the "Design Hearing." The proposed resolution approves the major design features of the road.

Mr. Clayton reviewed an overhead map showing the proposed drive. He gave a brief description of the project including sidewalks, bikeways, and traffic lights. The next step will be to finalize the construction drawings. The right-of-way acquisition should be completed by the end of 2004, with construction in 2005. Council members and staff briefly discussed the design elements.

Mr. Tabb Moved That City Council Approve Resolution #04-02, Treyburn Drive Design Public Hearing Approval, Approving the Major Design Features of the Treyburn Drive Project As Presented At the December 15, 2003, Public Hearing. The Motion Was Seconded by Mr. Haulman.

Recorded Vote on the Motion:

Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb

No: None

(SEE ATTACHED ADOPTED RESOLUTION #04-02)

Fee Proposal for Waller Mill Park

Reference for this item was Mr. Tuttle's report dated February 5, 2004, and Mr. Hudson's referenced recommendation.

Mr. Tuttle explained that he was bringing this matter to Council before budget time. No action is recommended at this time, but staff is considering the implementation of a \$2.00 per vehicle visitor fee for the use of Waller Mill Park. Many parks are now charging fees because of recent reductions in federal and state funding. Eighty-eight percent of users of the park are non-city residents. The \$2.00 fee would generate revenues of \$50,000 to \$70,000 to offset the \$200,000 park budget. He will ask Council to consider implementing the fee with adoption of the FY 05 budget.

Council members discussed the fee. Mr. Hudson said that by agreement with James City County, and by an understanding with York County, fees for residents of all three localities are the same. Access to programs and activities shall be equally available to all the residents. If the city exempted city residents, the counties' residents would also be exempted from the fee. There was some ambivalence about the proposed fees. Council asked for more information and that staff explore other ways to increase revenues.

Request for Exemption Under Rental Housing inspection Program—112 Indian Springs Road

Reference for this item was Mr. Tuttle's report dated February 5, 2003. Mr. Tuttle explained that the Codes Compliance Division has received a request for an exemption

from the annual inspection of multifamily rental apartments. The apartments are owned by Ms. Harris and are located on Indian Springs Road. The property satisfies the required minimum of ten rental units and has on-site management. Staff recommended the exemption be approved.

Mr. Haulman Moved that City Council Approve the Request of Nancy G. Harris for the Multi-family Dwelling Exemption for Indian Springs Apartments, 122 Indian Springs Road. The Motion Was Seconded by Mr. Scruggs.

Recorded Vote on the Motion:

Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb

No: None

Preserve America Application, Proposed Resolution #04-04

Reference for this item was Mr. Tuttle's report dated February 5, 2004, which included a copy of the proposed resolution. Mr. Tuttle said approval of the resolution is needed to support the city's "Preserve America" application. This program recognizes communities that protect and celebrate their heritage, use their historic assets for economic development and community revitalization, and appreciate their historic resources through education and tourism programs.

Council members concurred in their support of the application.

Mr. Scruggs Moved The City Council Approve Resolution #04-04, Supporting the City's Designation and Application as a "Preserve American Community." The Motion was Seconded by Mr. Tabb.

Recorded Vote on the Motion:

Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb

No: None (SEE ATTACHED ADOPTED RESOLUTION #04-04)

City Attorney Report

Adoption of City Code Supplement #16, Proposed Ordinance #04-02

Mr. Phillips stated that Proposed Ordinance #04-02 adopts Supplement #16 to the City of Williamsburg Code. Supplement #16, formally adopts amendments to the code approved during calendar year 2003.

Mr. Scruggs Moved that City Council Adopt Proposed Ordinance #04-02, An Ordinance to Adopt Supplement Number 16, January 2004, of the Code of the City of Williamsburg. The Motion was Seconded by Mr. Tabb.

Recorded Vote on the Motion:

Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb

No: None (SEE ATTACHED ADOPTED ORDINANCE #04-02)

Updates to City Code: Fire Prevention, Proposed Ordinance #04-03

Mr. Phillips requested Council's approval of this proposed ordinance to update the city's Fire Code to bring it into compliance with the Virginia Fire Code.

Mr. Houghland Moved that City Council Adopt Proposed Ordinance #04-03, An Ordinance Amending Chapter 8, and Fire Protection of the Code of the City of Williamsburg. The Motion was Seconded by Mr. Tabb.

Recorded Vote on the Motion:

Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb

No: None (SEE ATTACHED ADOPTED ORDINANCE #04-03)

Appeal of Revocation of Taxi Cab Driver's License, Proposed Ordinance #04-04

Mr. Phillips requested Council's approval of this proposed ordinance to amend the appeal process for revocation of a taxi cab driver's license. Currently, the decision of the Police Chief is appealed to City Council. If approved, appeals would be forwarded to the City Manager instead of Council.

Mr. Scruggs Moved that City Council Adopt Proposed Ordinance #04-04, An Ordinance to Amend Section 20-82(c) of Chapter 20 of the Williamsburg Code Pertaining to the Appeal of Revocation of Taxi Cab Driver's License. The Motion was Seconded by Mr. Haulman.

Recorded Vote on the Motion:

Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb

No: None (SEE ATTACHED ADOPTED ORDINANCE #04-04)

UNFINISHED BUSINESS

Appointments to Boards and Commissions

Mr. Houghland Moved the Following Appointments:

*Mr. **Thomas F. Mainor** to the Olde Town Medical Center Board to fill the unexpired term of Mr. Davison Douglas, to expire June 30, 2004; and*

*Mr. **Fred R. Howard** to the Citizens Telecommunications Advisory Committee to fill the unexpired term of Mr. William Morrow, to expire June 30, 2004; and*

*Mr. **William L. Ellis** to the Industrial Development Authority to fill the unexpired term of Mr. Richard Porter field, to expire June 8, 2005.*

The Motion Was Seconded by Mr. Tabb.

Recorded Vote on the Motion:

Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb

No: None

NEW BUSINESS

Announcement on Opening of Prince George Parking Garage

Mr. Tuttle said the new garage would open during the day for the month of March at no cost to users, in order to encourage use. For the month of April, the garage would operate normally, but with a number of promotions planned. Jodi Miller said she is working with the Merchants Square Association on promotional gift ideas to encourage use of the garage. Promotions will be advertised.

Heritage Human Society

Mr. Haulman said this was an appropriate time for this city to think about its contribution to the shelter. This is a good public/private partnership. The community should come together to support this organization.

Legislative Update

Ms. Miller provided an update on the city's three charter amendments regarding underground utilities, compensation for the School Board, and oaths of office being given by the Clerk of Council. They have the support of Representative Barlow and Senator Normont and are expected to pass. There is a proposal to reinstate \$2 million to the Cooperative Advertising Program.

OPEN FORUM

Mayor Zeidler opened the comment session.

Brian Cannon, Student Assembly President, College of William and Mary, 2133 S. Henry Street, addressed Council about the upcoming Off-Campus Housing Seminar for William and Mary students. An e-mail survey is being generated concerning campus housing, and so far they have received 200 responses. He and a fellow student have joined the Neighborhood Council. He encouraged Council to look into student-friendly businesses and housing. He asked how best students could be involved in the Comprehensive Planning process.

Mayor Zeidler said Council would be interested in seeing the survey. Mr. Nester said he is working with Sharpe Program students on the Comprehensive Planning process.

No one else wished to speak. The session was closed.

The meeting adjourned at 4:26 p.m.

Approved: March 11, 2004

Shelia Y. Crist
Clerk of Council

Jeanne Zeidler
Mayor